

## **BILL ANALYSIS**

Senate Research Center  
85R436 DDT-F

S.B. 1842  
By: Lucio  
Intergovernmental Relations  
4/12/2017  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A municipal utility district (MUD) has the power to incur debt, levy taxes, charge for services, enter into contracts, and obtain easements. There are over 800 MUDs in Texas. MUD infrastructure, development, and maintenance costs are often covered by issuing tax-supported debt or utility fees.

A Class "A" Utility is a retail public utility that provides water and/or sewer service through 10,000 or more taps or connections. Class "A" utilities have full-time infrastructure operators, and offer regional rates subject to oversight by the Public Utility Commission (PUC).

Class "A" utilities are uniquely qualified to work with MUDs to meet their infrastructure development and infrastructure needs. As proposed, a public utility partnership (PUP) between Class "A" utilities and MUDs could alleviate some of the MUD debt burden, and allow investment in other MUD community projects and facilities.

S.B. 1842 allows a Class "A" utility to provide service within the boundaries of a MUD with the approval of an application with PUC.

The Class "A" utility will not be required to go through the certificate of convenience and necessity process with PUC.

The application requires the written consent of the MUD.

As proposed, S.B. 1842 amends current law relating to an application for the amendment of a certificate of public convenience and necessity in an area within the boundaries of a political subdivision.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13.002, Water Code, by adding Subdivision (13-a), to define "municipal utility district."

SECTION 2. Amends Section 13.244(a), Water Code, to create an exception under Section 13.258, which is added by this Act.

SECTION 3. Amends Section 13.246, Water Code, by adding Subsection (j), to provide that this section (Notice and Hearing; Issuance or Refusal; Factors Considered) does not apply to an application under Section 13.258.

SECTION 4. Amends Subchapter G, Chapter 13, Water Code, by adding Section 13.258, as follows:

Sec. 13.258. UTILITY'S APPLICATION FOR AMENDMENT AND USE OF MUNICIPAL UTILITY DISTRICT'S CERTIFICATE UNDER CONTRACT. (a) Authorizes a Class A utility, notwithstanding any other provision of this chapter (Water Rates and Services), to apply to the Texas Commission on Environmental Quality for an amendment of a municipal utility district's (district's) certificate of convenience and necessity to allow the utility to have the same rights and powers under the certificate as the district.

(b) Requires an application under this section to be accompanied by certain information.

(c) Prohibits the Public Utility Commission of Texas (PUC), for an application under this section, from requiring any information other than the information required by this section.

(d) Requires PUC, not later than the 60th day after the date an applicant files an application for an amendment, to review whether the application is complete. Requires PUC, if PUC finds that the application is complete, to find that the amendment of the certificate is necessary for the service, accommodation, convenience, or safety of the public; and grant the application and amend the certificate.

(e) Provides that PUC's decision under this section becomes final after reconsideration, if any, authorized by PUC rule and prohibits the decision from being appealed.

(f) Provides that the consent of a municipality is not required for PUC to amend a certificate as provided by Subsection (a) for an area that is in the municipality's extraterritorial jurisdiction.

(g) Provides that Sections 13.241(d) (relating to requirements of the applicant before PUC grants a new certificate of convenience and necessity for a certain area) and 13.245 (Municipal Boundaries or Extraterritorial Jurisdiction of Certain Municipalities) do not apply to an application under this section.

(h) Provides that Chapter 2001 (Administrative Procedure), Government Code, does not apply to an application for an amendment of a certificate of public convenience and necessity under this section.

SECTION 5. Amends Section 341.035(d), Health and Safety Code, as follows:

(d) Provides that a person is not required to file a business plan under Subsection (a)(1) (relating to prohibiting a person from beginning construction of a certain system unless a business plan for the system is approved) or (b) (relating to a certain business plan submitted by the prospective owner or operator of the system, as required) if the person is a Class A utility, as defined by Section 13.002 (Definitions), Water Code, that has applied for or been granted an amendment of a certificate of convenience and necessity under Section 13.258, Water Code, for the area in which the construction of the public drinking water supply system will operate. Redesignates existing Subdivision (4) as Subdivision (5). Makes a nonsubstantive change.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2017.